



Public Employees for Environmental Responsibility

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June 26, 2017

National Freedom of Information Officer
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, NW (2822T)
Washington, DC 20460

RE: FOIA REQUEST

To whom it may concern:

The U.S. Environmental Protection Agency recently announced that it would stop funding for fitness subsidies and fitness centers for its employees. Jahan Wilcox, an EPA spokesman, issued a statement concerning this action that read:

“We have ended taxpayer-funded fitness centers at EPA; a program that was costing American taxpayers \$900,000 per year. Disinvestment in using federal funds for EPA fitness centers will allow the agency to invest this money in core activities to protect the environment.”

Pursuant to the Freedom of Information Act, 5 U.S.C. 552, as amended, Public Employees for Environmental Responsibility (PEER) requests information concerning this action. Specifically, we request the following:

1. Copies of all decision documents concerning the decision to end agency support for employee fitness programs, including the rationale for this decision;
2. Copies of all communications to and from parties outside EPA on this topic from January 1, 2017 to present;
3. Estimates of both the number and percentage of EPA employees in each Region, including Headquarters, and each lab, who take advantage of the fitness program, together with the type of fitness benefit that exists at each EPA office (e.g., federally owned fitness center, discount for third party fitness center, etc.);
4. Any analysis done by or for EPA concerning the value of fitness programs for its employees, in terms of greater productivity, fewer sick days claimed, etc.;

5. The basis for any estimate of savings to the taxpayer by this decision, such as cancellation of employee discounts to private or third-party facilities;
6. An itemization of costs (either one-time or ongoing), such as leases, storage or disposal of fitness equipment, stemming from this action; and
7. Documents reflecting EPA plans to “invest this money” (in the words of Mr. Wilcox) or the intended end uses of cost savings derived from ending fitness benefits.

For any documents or portions of documents that you block release due to specific exemption(s) from the requirements of the Freedom of Information Act, please provide an index itemizing and describing the documents or portions of documents withheld. The index should, pursuant to the holding of *Vaughn v. Rosen* (484 F.2d 820 [D.C. Cir. 1973] cert. denied, 415 U.S. 977 [1974]), provide a detailed justification for claiming a particular exemption that explains why each such exemption applies to the document or portion of a document withheld.

To the extent that EPA needs to perform a detailed review, PEER requests that all fees be waived because “disclosure of the information is in the public interest . . . and is not primarily in the commercial interest of the requestor” (5 U.S.C. 552 (a) (4)(A)):

1. The subject matter of the requested records must specifically concern identifiable operations or activities of the government.

The FOIA request is, by its terms, limited to identifiable activities of EPA and its employees.

2. For the disclosure to be “likely to contribute” to the understanding of specific government operations or activities, the releasable material must be meaningfully informative in relation to the subject matter of the request.

The subject matter of this request is a recent decision to end fitness benefits for EPA employees. The requested documents concern why this decision was made, its costs and benefits, including how any savings will be used. As such, the requested material is the most informative concerning the subject matter.

3. The disclosure must contribute to the understanding of the public at large, as opposed to the understanding of the requestor or a narrow segment of interested persons.

The general public has a keen interest in whether EPA is using federal tax dollars wisely.

The public also is concerned about the wellness and health of federal employees. To the extent that employee fitness enhances workplace performance, the public would be concerned about whether EPA employees are performing to optimal levels.

In addition, an EPA official spokesperson indicated that any savings would be invested to further “in core activities to protect the environment.” The general public would be most interested to know in what way and to what extent protection of the environment will be enhanced.

Alternatively, if there was no or little truth behind this statement, the public would be acutely interested to know that these public statements were disingenuous.

PEER intends to provide the requested information to the general public through —

- Release to the news media;
- Posting on the PEER web page which draws between 1,000 and 10,000 viewers per day; and
- Publication in the PEER newsletter that has a circulation of approximately 20,000, including 1,500 environmental journalists.

PEER has a long track record of attracting media and public attention to the internal workings of EPA. In addition, this action has generated national media attention.

4. The disclosure must contribute “significantly” to public understanding of government operations or activities.

The nature of the information should shed direct light on why the decision was made and what are the ramifications.

The requested documents would also reveal whether the action was thoughtfully considered or a knee-jerk reaction. Further, the documents would show the state of information available to guide decision-makers and whether that information was used in making the decision.

5. The extent to which disclosure will serve the requestor’s commercial interest.

Disclosure is in no way connected with any commercial interest of the requestors in that PEER is a nonprofit, nonpartisan public interest organization concerned with upholding the public trust through responsible management of our nation’s resources and with supporting professional integrity within public land management and pollution control agencies. To that end, PEER is designated as a tax-exempt organization under section 501(c)(3) of the Internal Revenue Code.

6. The extent to which the identified public interest in the disclosure outweighs the requestor’s commercial interest.

As stated above, disclosure is in no way connected with any commercial interest of the requestors in that PEER is a nonprofit, nonpartisan public interest organization concerned with upholding the public trust through responsible management of our nation’s resources and with supporting professional integrity within public land management and pollution control agencies. To that end, PEER is designated as a tax-exempt organization under section 501 (c) (3) of the Internal Revenue code.

If you have any questions about this FOIA request, please contact me at (202) 265-PEER. I look forward to receiving the agency’s final response within 20 working days.

Cordially,

Jeff Ruch
Executive Director